BEFORE THE HON'BLE HIGH COURT OF

CHHATTISGARH AT BILASPUR (C.G.)

CR.M.P.NO. 140 /2006

Single Bench

PETITION UNDER SECTION 482 OF THE CRIMINAL PROCEDURE CODE, 1973

PETITIONER

Ram Lakhan, aged about 70 years, son of Shrichand Mahto, occupation Truck Driver, resident of – Bandhiyakhar, Tah. Patthalgaon, Distt. Jashpur (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through – Its Secretary, Department of Forest, Dau Kalyan Singh Bhawan, Raipur (Chhattisgarh)
2. The Sub Divisional Officer (Forest), Dharamjaigarh (Prescribed Competent Authority), Dharamjaigarh, District Raigarh (Chhattisgarh)
3. Forest Range Officer, Forest Range, Dharamjaigarh, Distt.. Raigarh (C.G.)

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(24)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक CR.M.P. No. 140/2006 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15.2.2007

Shri A. N. Bhakta , counsel for the petitioner.
Shri G.K. Beriwal, Dy. A. G. appears for the State.

Heard on admission.

This is a petition filed u/s 482 of the Code of Criminal Procedure seeking direction for filing of the charge sheet by respondents 2 & 3 and also for quashing the offence registered against the petitioner under the Prevention of Damages to Public Property Act, 1984 by the Forest Officer concerned.

Learned counsel for the petitioner submits that under POR No. 779/2006 dated 1/1/2005 an offence under Sections 26(1) (3), 52(2) of the Forest Act and Section 3 of the Prevention of Damages to Public Property Act, 1984 was registered against the applicant by the concerned Forest Ranger, Dharamjaigarh. He was taken into custody in the said case and ultimately he was released on regular bail u/s 439 on 13/1/2005. The copy of the bail order has been filed as Annexure P/2.

Learned counsel for the applicant submits that for the said offence, the charge sheet has not been filed till date. His grievance is that the concerned authorities be directed to file the charge sheet and that the registration and investigation of crime under Section 3 of the Prevention of Damages to Public Property Act, 1984, which have been done by the forest authorities be also quashed as the same has been done without jurisdiction. So far as the grievance of the petitioner regarding filing of charge sheet is concerned, it cannot be directed by this Court to the prosecution agency to file the charge sheet. Under the Code Of Criminal Procedure the prosecution is at liberty to investigate the matter

P.T.O.

XI-HC-78

(25)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

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to its satisfaction and if after the complete investigation, it reaches to the conclusion that a charge has to be filed then only the charge sheet has to be filed and if unnecessary time is taken and the limitation for filing a charge sheet under a particular section is lapsed, the law will take its own course in that situation and benefit of the same would go to the accused. Such directions are not to be given by the Courts because there may be a case in which the prosecution may not decide to file charge sheet against a particular person on the basis of out come of the final investigation in the case.

So far as the other grievance is concerned, that whether the cognizance can be taken on such charge sheet in a court of law, which is filed by a Forest Officer in the matter of Prevention of Damages to Public Property Act, 1984, that is also a matter which can be decided after filing of the charge sheet under that particular section, because if the question of jurisdiction could be raised, it shall be decided by the competent court at the appropriate stage. At this stage, no such reliefs can be granted in a petition filed u/s 482 Cr.P.C.

The petition has no merits and the same is dismissed at the admission stage, itself.

In view of the above, M.Cr.P.No.2274/2006 also stands dismissed.

Sd/-
SUNIL KUMAR SINHA
Judge

P.T.O.